

APPEAL NO. 040492
FILED APRIL 22, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on February 6, 2004. The hearing officer resolved the disputed issues by deciding that the respondent (claimant) timely filed an Application for Supplemental Income Benefits (SIBs) (TWCC-52) for the 9th quarter; that the claimant is not entitled to SIBs for the 9th quarter; and that the claimant is entitled to SIBs for the 10th quarter. The appellant (carrier) appeals the hearing officer's determinations that the claimant timely filed his TWCC-52 for the 9th quarter and that the claimant is entitled to SIBs for the 10th quarter, contending that the evidence does not support those determinations. No response was received from the claimant. There is no appeal of the hearing officer's determination that the claimant is not entitled to SIBs for the 9th quarter.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The SIBs criterion in dispute for the 10th quarter is whether the claimant made a good faith effort to obtain employment commensurate with his ability to work during the qualifying period for the 10th quarter. The hearing officer found that the claimant looked for employment commensurate with his ability to work every week of the qualifying period for the 10th quarter and documented his job search efforts. The hearing officer determined that the claimant is entitled to SIBs for the 10th quarter. With regard to the timely filing of the TWCC-52 for the 9th quarter, the hearing officer found that the claimant timely and properly filed the TWCC-52 for the 9th quarter with the carrier. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the finder of fact, the hearing officer resolves the conflicts in the evidence and determines what facts have been established. We do not believe that the hearing officer impermissibly interjected himself into the hearing process by asking questions as is contended by the carrier. The hearing officer explained that he was attempting to fully develop the facts required for the determination of the disputed issues pursuant to his responsibility under Section 410.163(b). We do not perceive that the hearing officer was anything other than impartial in asking several questions of the claimant in order to develop the facts. We conclude that the hearing officer's determinations that the claimant is entitled to SIBs for the 10th quarter and that the claimant timely filed his TWCC-52 for the 9th quarter are supported by sufficient evidence and are not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the hearing officer's decision and order.

The true corporate name of the insurance carrier is **TRANSCONTINENTAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Robert W. Potts
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Veronica L. Ruberto
Appeals Judge